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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 IN RE: TFT-LCD (FLAT PANEL) ANTITRUST
9 LITIGATION

No. M 07-1827 SI

MDL. No. 1827

10 This Order Relates to:

11 All Indirect-Purchaser Plaintiff
12 Class Actions
13

**ORDER DENYING MOTION FOR
CLARIFICATION AND/OR
MODIFICATION OF PRIOR ORDERS**

14 Objectors Alison Paul and Leveta Chesser, and their counsel Joseph Darrell Palmer, filed a
15 “Motion for Clarification and/or Modification of Court’s Order (Docket No. 7618) and Stay of Court’s
16 Order” on March 4, 2013. The moving parties neither sought nor obtained leave to court to file the
17 motion. The matter is scheduled for a hearing on April 19, 2013. Pursuant to Civil Local Rule 7–1(b),
18 the Court determines that this matter is appropriate for resolution without oral argument, and VACATES
19 the hearing. For the reasons set forth below, the Court hereby DENIES the motion. Docket No. 7628.

20 Objectors and Palmer “seek clarification and modification of the Order finding them in civil
21 contempt” on the basis that the Court, during the February 12, 2013 hearing, “was not inclined to make
22 a finding of civil contempt.” *See* Docket No. 7628 at 3. They point to the discussion during the hearing
23 in which the Court questioned IPP counsel’s request for civil contempt and the need for further
24 depositions. Objectors and Palmer argue that because the Court found that depositions were no longer
25 necessary, and thus that there was no need to coerce the objectors’ appearance at depositions, there
26 would be no purpose for a finding of civil contempt. Objectors and Palmer also assert that a stay of the
27 Court’s Order is necessary to prevent undue financial hardship and to prevent undue damage to
28 counsel’s professional reputation and licensure. Additionally, they request at least 90 days to make full

1 payment of the sanctioned amount.

2 This motion is effectively a motion for reconsideration filed without leave of court. As such,
3 it is improper. *See* Civil Local Rule 7–9(a)–(b) (requiring leave from the court and a showing of good
4 cause before allowing a party to file a motion for reconsideration).

5 In any event, the Court denies Objectors’ and Palmer’s motion for modification. Civil contempt
6 can be used as a coercive measure, as was discussed at the hearing. In addition, however, as noted in
7 the Court’s Order, civil contempt can be utilized as a remedial measure to compensate opposing
8 counsel’s attorneys’ fees and costs. *Perry v. O'Donnell*, 759 F.2d 702, 704-705 (9th Cir.1985) (in
9 fashioning civil contempt sanctions, the court has the discretion to award reasonable fees and costs as
10 a remedial measure, regardless of whether the party in contempt acted wilfully); *General Ins. Co., etc.*
11 *v. Eastern Consol. Util, Inc.*, 126 F.3d 215, 220 (3d Cir.1997) (upholding monetary sanction of expenses
12 and attorney's fees for non-party's failure to appear at a deposition). That the Court’s monetary award
13 was intended to compensate IPP Counsel, as opposed to serving as a penalty, does not alter its
14 classification as a sanction, as Palmer suggests.¹ Accordingly, the Court DENIES the motion.

15 Additionally, the Court denies Objectors’ and Palmer’s request for (1) at least 90 days to make
16 full payment and (2) a stay of the Order pending appeal. Objectors Paul and Chesser, and their counsel,
17 Palmer, are ordered to pay the full sanctioned amount of \$9,254.11 by **March 22, 2013.**

18
19 **IT IS SO ORDERED.**

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21 Dated: March 12, 2013

22 
23 SUSAN ILLSTON
24 United States District Judge
25
26

27 ¹The Court makes no finding with respect to the reporting requirements of Cal. Bus. Prof. Code
28 § 6068 (o)(3) requiring an attorney to report “[t]he imposition of judicial sanctions against the attorney,
except for sanctions for failure to make discovery or monetary sanctions of less than . . . \$1,000.”
However, the Court’s Order of February 19, 2013 unambiguously awards a monetary *sanction*.